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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA

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U.S.D.C. Atlanta

ATLANTA DIVISION

OCT 23 2009

HILDA L. SOLIS,
Secretary of Labor,
United States Department of Labor,

Plaintiff,

v.

GAFL EXPRESS, INC., a/k/a GA-FL EXPRESS,
INC. and KEVIN EVANS, Individually,

Defendants.

JAMES N. HATTEN, CLERK
By: *J. Brannon* Deputy Clerk
FILE NO.

1:09-cv-2979

-RLV

COMPLAINT
(Injunctive Relief Sought)

Plaintiff brings this action pursuant to § 17 of the Act, 29 U.S.C. § 217, to have Defendant enjoined from violating the provisions of § 7(a)(1) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, et seq., hereinafter the Act; and, pursuant to § 16(c) of the Act, 29 U.S.C. § 216(c), to recover unpaid overtime compensation, together with an equal amount as liquidated damages.

I

This Court has jurisdiction over this action pursuant to §§ 16(c) and 17 of the Act and 28 U.S.C. §§ 1331 and 1345.

II

Defendant GAFL Express, Inc., at all times hereinafter mentioned, has been a corporation having a place of business and doing business in Cherokee County, Georgia.

Defendant, Kevin Evans, co-owner of GAFL Express doing business in Cherokee County, Georgia at all times hereinafter mentioned acted directly or indirectly in the interest of the aforesaid corporation in relation to its employees, therefore is an employer within the meaning of § 3(d) of the Act, 29 U.S.C. § 203(d).

III

At all times hereinafter mentioned:

A. Defendants, engaged in related activities performed either through unified operation or common control for a common business purpose, constitute an enterprise within the meaning of § 3(r) of the Act, 29 U.S.C. § 203(r); and

B. Defendants operates a courier service, and constitutes an enterprise engaged in commerce or in the production of goods for commerce within the meaning of § 3(s)(1)(B) of the Act, 29 U.S.C. § 203(s)(1)(B).

IV

Since October 21, 2007, Defendants repeatedly violated the provisions of §§ 6 and 15(a)(2) of the Act, 29 U.S.C. §§ 206 and 215(a)(2), by failing to pay employees employed in an enterprise engaged in commerce or in the production of goods for commerce, the applicable minimum hourly rate.

V

Since October 21, 2007, Defendants repeatedly violated the provisions of §§ 7 and 15(a)(2) of the Act, 29 U.S.C. §§ 207 and 215(a)(2), by employing employees in an enterprise engaged in commerce or in the production of goods for commerce, for workweeks longer than 40

hours without compensating such employees for their employment in excess of such hours at rates not less than one and one-half times the regular rates at which they were employed.

VI

Since October 21, 2007, Defendants, employers subject to the provisions of the Act, repeatedly violated the provisions of §§ 11(c) and 15(a)(5) of the Act, 29 U.S.C. §§ 211(c) and 215(a)(5), and Regulations found at 29 C.F.R. § 516 by failing to make, keep and preserve adequate and accurate records of the persons employed and of the wages, hours and other conditions and practices of employment maintained by them, as prescribed in the aforesaid Regulations.

WHEREFORE, cause having been shown, Plaintiff prays for Judgment pursuant to § 17 of the Act, 29 U.S.C. § 217, permanently enjoining Defendants, their agents, servants, employees and all persons in active concert or participation with them from violating the provisions of §§ 11(c), 15(a)(2) and 15(a)(5) of the Act and restraining the withholding of payment of back wages found by the Court to be due employees under the Act, for a period of two years prior to the commencement of this action and an additional equal amount as liquidated damages to employees (as named in Appendix "A" attached hereto and made a part hereof and such other employees as hereafter may be identified and named prior to or at trial); and for such other and further relief as may be necessary and appropriate including costs of this action.

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